



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,584	12/21/2001	Craig A. Rosen	PF112P1D2	4809
22195	7590	03/11/2005	EXAMINER	
HUMAN GENOME SCIENCES INC INTELLECTUAL PROPERTY DEPT. 14200 SHADY GROVE ROAD ROCKVILLE, MD 20850			LANDSMAN, ROBERT S	
			ART UNIT	PAPER NUMBER
			1647	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,584

Applicant(s)

ROSEN ET AL.

Examiner

Robert Landsman

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

05 October 2004 +

AL
3/8/05

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-110 is/are pending in the application.
- 4a) Of the above claim(s) 20,21,51,67,68 and 90-96 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19,22-50,52-66,69-89 and 97-110 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/7/04; 10/5/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Formal Matters

- A. The Amendment dated 12/7/04 has been entered into the record.
- B. Claims 1-110 are pending. Claims 1-19, 22-50, 52-66, 69-89 and 97-110 are the subject of this Office Action.
- C. All Statutes under 35 USC not found in this Office Action can be found, cited in full, in a previous Office Action.

2. Information Disclosure Statement

- A. Reference GM on the IDS dated 12/7/04 has been lined through since a "European Search Report" is not proper subject matter for an IDS. Each reference should be listed individually.

3. Interference

- A. The potential interference over Alitalo et al. as discussed in the Office Action mailed 11/26/03 remains of record. If Applicants wish to provoke an interference, they are required to meet the criteria of 37 CFR 41.202 (a) – (d).

4. Claim Objections

- A. All objections to the claims have been withdrawn in view of Applicants' arguments.

5. Claim Rejections - 35 USC § 112, second paragraph

- A. The rejection of claims 18, 19, 49, 50, 65, 66, 88 and 89 under 35 USC 112, second paragraph, has been withdrawn in view of Applicants' arguments and the submission of a paper by Joosten regarding "antibody fragments."

Art Unit: 1647

6. Double Patenting

A. Claims 1-19, 22-50, 52-66, 69-89 and 97-110 remain rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over at least claim 144 of U.S. Application No. 10/120,377. This rejection was previously made in the Office Action mailed 11/26/03. Though this rejection did not appear in the Office Action mailed 7/12/04, the rejection was never withdrawn. Though the rejection of 11/26/03 states that the rejection was made under 35 USC 101, it is clear from the paragraph regarding a Terminal Disclaimer, that the rejection was obviousness-type. Initial claim 21 was canceled. However, new claim 144 recites essentially the same subject matter as canceled claim 21.

7. Claim Rejections - 35 USC § 102

A. The rejection of all claims under 35 USC 102 as being anticipated by Houck et al. has been withdrawn, not in view of Applicants' arguments, but by the fact that the Examiner could not make a prime facie case that the monoclonal antibody of Houck would bind to the protein of the present invention. The two proteins have only a minor area of overlap in their sequences, not enough to make a prime facie case.

8. Claim Rejections - 35 USC § 103

A. The rejection of all claims under 35 USC 102 as being anticipated by Houck et al. has been withdrawn for the reasons provided in the above rejection under 35 USC 102.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1647


Advisory information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Landsman whose telephone number is (571) 272-0888. The examiner can normally be reached on M-Th 9 AM-6 PM (eastern); alt F 9 AM-6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert Landsman
Primary Examiner
Art Unit 1647


ROBERT S. LANDSMAN, PH.D
PRIMARY EXAMINER